

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 20TH AUGUST 2007 / 29TH SRAVANA 1929

WP(C).No. 25210 of 2007(A)

PETITIONER:

**MRS. SUSEELA A.K., ELAVALLY THARAVATTIL
HOUSE, N.G.O. QUARTERS, FLAT NO. 2/9
AYYATHOLE P.O., THRISSUR.**

BY ADV. SRI.RANJITH XAVIER

RESPONDENTS:

- 1. INASU, S/O. OUSEPH, CHEMMANAMTHOTTIL
HOUSE, MUTHALAMADA VILLAGE CHITTUR TALUK,
PALAKKAD DISTRICT.**
- 2. MEDICAL OFFICER INCHARGE,
PRIMARY HEALTH CENTRE, PAMBOOR HARIJAN COLONY,
P.O. KUTTUR, THRISSUR DISTRICT.**

BY

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 20/08/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

M.N.KRISHNAN, J.

WP(C)No. 25210 OF 2007 A

Dated this the 20th August, 2007.

JUDGMENT

The writ petitioner seeks to issue a writ of mandamus commanding the second respondent to produce full details of attachment effected from the salary of the petitioner in E.P.517/04 in O.S.566/2000 and to declare that the salary of the petitioner is finally exempt from attachment in execution of the decree in O.S.566/2000 of the Chittur Munsiff Court. It is the case of the writ petitioner that the salary is attached for a period of 26 months and it is against the mandate of the proviso to Section 60(1)(i) C.P.C. Proviso to Section 60(1)(i) stipulates that where attachment has been made in execution of one and the same decree, shall, after the attachment has continued for a total period of twenty four months, be finally exempt from attachment in execution of that decree. So, it is mandatory not to attach the salary of a person in execution of one decree for more than twenty four months. If salary is attached, thereafter it is against law and it has to be instantaneously stopped. Since it is contended that already attachment of 26 months had been effected, I direct the second respondent not to effect any attachment hereafter till a direction is given by the Munsiff.

Meanwhile, the learned executing court is directed to apply its mind regarding the months which salary has been attached and if 24 months had already expired, direct the attaching authority to forthwith stop attachment of the salary. I also make it clear that in these type of cases the court while issuing the order of attachment of salary should make it specifically clear that the attachment shall be only for a period of 24 months and not thereafter. With these observations the writ petition is disposed of.

M. N. KRISHNAN
Judge

jj